

## **REMARKS**

### **Status of case**

Claims 15-18, 22-30, 32-43 and 66-68 are currently pending in this case.

### **Rejection under 35 U.S.C. § 112**

Claims 15-18, 22-30, 32-43, 66-68 are rejected under 35 U.S.C. § 112, ¶ 2 as being indefinite.

Applicant proposes deleting the term “pooled” from the claims and amending the claims as shown above to clarify that funds from a plurality of different investors are being managed and allocated to achieve the objectives and advantages of the present invention. Further, Applicant proposes deleting the phrase “pooled investment funds from multiple different investors” and similar phrases and the phrase “though a network of (intermediate) allocations” from the claims. As the Examiner noted on page 4 of the Office Action, a single Individually Managed Account (IMA) does not contain “pooled funds”. The present invention relates to a single system for collecting, allocating and managing funds from a plurality of different investors for the purpose of investing via intermediate allocations according to the predefined rules of the IMA for each investor.

For the foregoing reasons and in view of the amendments to the claims, Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 112.

### **Rejection under 35 U.S.C. § 101**

Claims 26-30, 31-39 are rejected under 35 U.S.C. § 101 as being directed to allegedly non-statutory subject matter. Claims 40-43 are rejected as allegedly being hybrid claims.

With respect to claims 26-30 and 31-39, Applicant proposes amending the claims as indicated above to support arguments that the invention in these claims is not merely an abstract idea, but relates to a “method performed by a machine”. In light of *In re: Bilski*, the proposed amendments are intended to demonstrate that the involvement of the computing devices is not incidental and they do not merely represent “insignificant post-solution activity”. In contrast, the communication devices enabling communication between users and the funds investment system via a communications network are essential integers for performance of the method. These

features are now in the body of independent claims 26 and 30 rather than in the preamble. Such amendments bring claims 26-30 and 30-39 more closely into line with the format of the other independent claims which the Examiner has not rejected on this basis under § 101.

The proposed amendments also address the Examiner's rejection with respect to claims 40-43. Proposed amended claims 40-43 clearly relate to a method and therefore a single statutory class of invention.

For the forgoing reasons, Applicant respectfully submits that claims 26-30, 32-39 and 40-43 are directed to patentable subject matter and requests withdrawal of the rejection under 35 U.S.C. § 101.

#### **Rejection under 35 U.S.C. § 102**

Claims 15-18, 22-26, 28-30, 32-33, 35-43, 66, and 68 are rejected under 35 U.S.C. 102(b) as being anticipated by Ray et al. (U.S. 6,018,722).

The present innovation provides more efficient systems and methods of providing the advantages of Individually Managed Accounts (IMA's) to relatively low account value customers. The features of such systems include a high level of customization, continuous active management by a professional third party and accurate tracking of performance with a sufficiently low cost to render the provision of such a service commercially feasible. The present invention aims to address the prior art problem of an increase in customization resulting in less active management of accounts due to customization mandates superseding asset managers' orders.

The proposed amendments to the independent claims include variants of the following limitation:

*"wherein the at least one processor actively administers superior allocations for the plurality of investors at lower cost as compared with subordinate allocations for the plurality of investors."*

Support for the proposed amendment can be found in the published specification at paragraphs 20, 86-88, 101 and 169-173.

The system disclosed in Ray et al. does not disclose, suggest or teach a tiered allocation scheme for investing funds comprising superior allocations of lower cost than subordinate

allocations, which achieves the aforementioned objectives of the present invention. With reference to column 2, lines 5-14 and lines 39-48, Ray et al. is directed to, and enables untrained individuals to manage their portfolio and allows providers of financial services to individually manage a multitude of separate and distinct customer accounts. Ray et al. refers to cost savings compared to known systems as at the filing date of Ray et al. of 19 June 1997, but Ray et al. does not achieve these costs savings by the active administration of superior allocations for the plurality of investors at lower cost as compared with subordinate allocations for the plurality of investors as claimed in the independent claims.

For the foregoing reasons, Applicant respectfully submits that Ray does not teach all the features of independent claims 15, 22, 26, 30, and 40, as amended, and request withdrawal of the 102(b) rejection of claims 15-18, 22-26, 28-30, 32-33, 35-43, 66, and 68.

#### **Rejection under 35 U.S.C. § 103**

Claims 27, 34 and 67 are rejected under 35 U.S. C. 103(a) as being unpatentable over Ray as applied to claim 26.

For the reasons discussed above, Ray does not teach or suggest all the features of independent claims 26 or 30, as amended. In other words, Applicant respectfully submits that each of claims 27, 34, and 67 depend from patentable claims and are thus patentable themselves. Applicant respectfully requests withdrawal of the 103(a) rejection and allowance of the claims.

#### **SUMMARY**

Applicant respectfully requests the Examiner enter the proposed amendments and grant allowance of this application. The Examiner is invited to contact the undersigned attorney for the Applicant via telephone if such communication would expedite this application.

Respectfully submitted,

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